

## Maine

### I. Background

Maine's IV-D agency, the Division of Support Enforcement and Recovery (the Division), is housed within the Office of Integrated Access and Support, in the Department of Health and Human Services (DHHS). It is state-administered, with 16 regional offices. According to unaudited data, at the end of federal fiscal year 2006, Maine had 67,045 open IV-D cases<sup>1</sup>. The child support agency reported 290 full-time equivalent staff.<sup>2</sup> Maine scored above the national average on three of the five federal performance measures (paternity, support order establishment, and current collections). The state was lower than the national average in two performance measures (arrearage collections and cost effectiveness).

Maine enacted its administrative child support process, titled the Alternative Method of Support Enforcement, in 1975 – the same year Title IV-D was enacted. The impetus was the judicial backlog of cases. As a result of discussions among the Commissioner of the Department of Human Services, the predecessor of DHHS, the child support director, and the courts, a joint decision was made to augment judicial resources by establishing an administrative process, in which the judicial branch would always have the final right of review.

The statutory authority for the Maine administrative process is Me. Rev. Stat. Ann. (MRSA) tit. 19-A, §§ 1601-1616, 2201-2204, 2251 – 2256, 2301 – 2309, 2351 – 2370, and 2451 – 2453. Judicial review of a final action of the Division is available to both noncustodial and custodial parents pursuant to 5 MRSA §§ 11001 – 11008 (“Judicial Review--Final Agency Action”). It is governed by Rule 80-C of the Maine Rules of Civil Procedure. The standard of review is the usual one for judicial review of the action of an administrative agency.

### II. Due Process Summary

According to the director of the child support agency, the Maine administrative process has been very effective. Over the years there has been some “tweaking” but the goal has always been to ensure that the legislature, court, and parties are comfortable with the due process protections. The agency has also invested a lot of time in training its child support caseworkers not only on the operational steps within the administrative process, but also on the reasons behind various decisions.

If an alleged father does not sign an acknowledgment of paternity, the agency must proceed judicially to determine paternity.

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\* Interview with Stephen Hussey, Director, Maine DHS/Support Enforcement, and Warren Liburt.

<sup>1</sup> Table 4, Statistical Program Status, OCSE FY 2006 Preliminary Data Report.

<sup>2</sup> State Box Score, OCSE FY 2006 Preliminary Data Report.

Under Maine's administrative processes for establishment and enforcement of a support order, if there is no response to an administrative notice, a Division district supervisor signs a proposed order based on the notice and the default order becomes final. If there is a challenge and timely request for an administrative hearing, the hearing is held before a hearing officer from the Office of Administrative Hearings (OAH).

OAH is within the Department of Health and Human Services, and is independent from the child support agency. Contested proceedings are governed by the Maine Administrative Procedure Act.<sup>3</sup> The parties can be represented by an attorney, but attorneys rarely participate. An enforcement agent appears on behalf of the Division; a IV-D attorney rarely participates in an administrative hearing. Most of the child support administrative hearings are conducted in person; however, telephonic hearings are permissible. In fact, all hearings involving incarcerated parents are conducted telephonically, as are many in interstate cases. Parties may present evidence and there is a record of the proceeding. The hearing officer must issue a decision within 30 days of the hearing. The decision is sent to both parents by regular mail. Service is complete upon mailing and the parents are presumed to have received the decision within three days of mailing.

A party who appeared at the hearing may seek a review of an adverse administrative decision within 30 days of the date of mailing of the decision by filing a review affidavit and requesting an administrative review hearing. The review affidavit identifies the issues on appeal. If there are reviewable issues, an administrative review hearing is scheduled within 30 days of the hearing request. The appeal is heard by a different hearing officer from the Office of Administrative Hearings. It can be conducted in person or telephonically. The review is on the record. From that decision, the noncustodial parent and custodial parent have the right to a judicial review of final agency action. The judicial review is heard in Superior Court. The petition for judicial review must be served by certified mail, return receipt requested, on all parties to the proceeding, the agency, and the Attorney General. The judicial review is on the record, with the exception that the court may order the administrative hearing officer to take additional evidence if the court finds such evidence necessary for its review. After taking additional evidence, the hearing officer may modify his or her findings and decision; the modifications are filed with the court and become part of the record. The court may affirm the administrative decision, remand it with instructions for further action, reverse, or modify it.

A noncustodial parent who does not respond to the initial administrative notice or does not appear at a scheduled administrative hearing may request that the default decision be set aside within one year of the mailing of the decision; the request must establish good cause as well as present a meritorious defense.

The Division can administratively modify administrative support orders, but cannot administratively modify a court order. Modification of such orders must proceed through the filing of a petition in the court.

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<sup>3</sup> Maine Rev. Stat. Ann. tit. 5, §§ 8001-11008.

There are no reported appellate court decisions on the constitutionality of the Maine child support administrative procedures.

### **III. Establishment of Paternity**

When paternity is at issue, the Division serves the alleged father with a Notice of Paternity Proceeding by personal service. The notice informs the alleged father that he may sign the enclosed Paternity Acknowledgment and paternity will be administratively determined. Alternatively, he may file a written denial of paternity with the agency within 20 days from service of the Notice. If he timely files a paternity denial, the Division will coordinate genetic testing. The Division mails the genetic testing results by first class mail.

If the alleged father fails to respond to the Notice of Paternity Proceeding, refuses to submit to genetic testing, or does not sign an acknowledgment of paternity within 15 days of notification that he has not been excluded by genetic testing, the Division may file the record of the proceeding in court and then proceed as in a judicial paternity proceeding. By statute, designated, trained enforcement agents who are not attorneys can file the record in the District Court and represent the Division in the action. When paternity is established judicially, the court will proceed to determine the obligations for current and past due support.

If the genetic test results exclude the alleged father from paternity, the Division may request a court order that states the alleged father was excluded as the biological father of the child(ren) by genetic testing.

### **IV. Support Establishment**

The Division can administratively establish a child support order when there is no court order for support.

In the early years of Maine's administrative process, when there was an establishment case, the child support agency sent the parties a notice to appear at a scheduled administrative hearing. Because of the large number of defaults, the agency, in the mid-1990's, changed its process to the present one.

Once the Division opens an establishment case, it serves the noncustodial parent with a Notice of Intention to Establish a Support Order and a blank Statement of Resources form. Service is by certified mail, return receipt requested. A copy of the Notice and Statement of Resources is sent to the custodial parent by regular, first class mail.

The Notice advises the noncustodial parent:

- That the Division intends to establish a support order;
- That the noncustodial parent must submit a completed Income Affidavit to the agency within 30 days of the notice;

- That the Division calculates a proposed support order based on the state's child support guidelines using all available information and, if there is a lack of sufficient reliable information about a parent's actual earnings for a current or past period, the Division presumes that the noncustodial parent has an earning capacity equal to the average weekly wage as determined by Department of Labor statistics;
- That the agency will send the noncustodial parent by regular mail a copy of the proposed support order and the agency's child support worksheet;
- That the noncustodial parent may request a hearing in writing within 30 days of the date of mailing of the proposed support order;
- That if the Division does not receive a timely request for hearing, it will issue a decision that incorporates the findings of the proposed support order; and
- That, after a decision is issued, the Division may enforce the decision by any lawful means, including immediate income withholding, lien and foreclosure, administrative seizure and disposition, order to withhold and deliver and tax refund intercept.

Based on the financial information provided by the parents, as well as income data available to the agency through data interfaces, an enforcement agent computes the guideline amount and prepares a proposed order. If there is no current income information, the Division will look at the noncustodial parent's work history. If there is no income information and no work history, the Division can impute income based upon geographical labor statistics for the parent's occupation. The Division serves the parents with a copy of the Proposed Support Order by regular mail. The accompanying Notice states the following.

- That the noncustodial parent has the right to request a hearing within 30 days of the date of mailing of the proposed support order and that if a hearing is requested, the Division will send the noncustodial parent a notice of hearing by regular mail at least 30 days before the date of the hearing, along with a statement of hearing rights;
- That if the Division does not receive a timely request for hearing, it will issue a decision that incorporates the findings of the proposed support order; and
- That the Division may enforce that decision by any lawful means, including immediate income withholding, lien and foreclosure, administrative seizure and disposition, order to withhold and deliver, license revocation, unemployment intercept and tax refund intercept.

If there is no response to the Notice and Proposed Support Order, a district supervisor signs the proposed order and it becomes final. (There is no requirement that a court ratify the order.)

If the noncustodial parent timely requests an administrative hearing, the request is forwarded by the regional support enforcement office to the Administrative Hearings Unit, which establishes the hearing date and notifies the parents via certified mail at least

30 days before the hearing date. The notice informs the noncustodial parent that if he or she fails to appear at the hearing, the proposed support order will be confirmed. Usually, about 45 days intervene between the date the hearing request is received by the Administrative Hearings Unit and the scheduled date.

The hearing is presided over by a hearing officer from the Office of Administrative Hearings within DHHS. As noted earlier, the administrative hearing adheres to the Maine Administrative Procedure Act. The hearing officer must issue a decision within 30 days of the hearing. A party who appeared in the administrative hearing may file a review affidavit and request for an administrative review hearing. If there are reviewable issues, an administrative review hearing is scheduled within 30 days of the hearing request. The appeal is heard by a different hearing officer from the Office of Administrative Hearings. It can be conducted in person or telephonically. The appeal is on the record. From that decision, the noncustodial parent and custodial parent have the right to a judicial review of final agency action. The judicial review is on the record.

A noncustodial parent who did not appear at the hearing or who did not request a hearing may request that the default decision be set aside for good cause shown, within one year of the mailing of the decision. The request must also present a meritorious defense to the decision. If the noncustodial parent establishes good cause for failure to appear at the hearing, the hearing officer must proceed to take evidence for the purpose of establishing the noncustodial parent's support obligations for current and past-due support.

An administrative decision for current support remains in effect until superseded by a court order.

## **V. Review and Adjustment/Modification**

Maine law does not provide for Cost of Living Adjustments (COLAs) in administrative support orders.

The Division has in operation a computer application that alerts enforcement agents to child support orders that are likely candidates for an upward modification, based on the obligor's current wages. If the case is currently TANF, the Division will initiate modification by following steps that mirror those used in a support establishment case. If the case is currently non-TANF, the Division will initiate the process (the same as that used in support establishment) only if the custodial parent advises the Division that he or she would like the agency to so proceed. If, upon reviewing the necessary financial information, the Division determines that it is unlikely an upward modification will be granted or, in the case of an order less than three years old, that the estimated increase will be greater than 15%, the Division will decline to initiate the modification proceeding. If a noncustodial parent requests the initiation of modification proceedings, the Division will send out the Statement of Resources form seeking more financial information. Regardless of whether the noncustodial parent completes and returns the form, the noncustodial parent has the right to an administrative hearing on the merits of the application.

## **VI. Enforcement**

The Division has a full range of administrative enforcement remedies, including liens on real property and vehicles, income withholding, license suspension, order to withhold and deliver, administrative seizure, credit bureau reporting. With the exception of contempt, which requires a court hearing, the Division uses the administrative process for enforcement actions.

The Division initiates enforcement through a Notice of Debt. It is a “super notice,” informing the obligor of the arrearage amount and of all the possible enforcement actions that the agency can take. The Notice includes a demand for payment in full within 20 days of the notice. The Notice informs the obligor of his or her right to challenge the accuracy of the Notice of Debt within 30 days by requesting an administrative review, which is conducted by a Departmental administrative hearing officer. The Notice further informs the obligor that, in the absence of such a request, the debt asserted by the Notice of Debt is legally established.

Maine statutes and the agency manual list the only issues that may be litigated by the parties at an administrative hearing. If the hearing is on a Notice of Debt, the only issues that may be considered are:

- (1) The receipt of public assistance by the noncustodial parent;
- (2) Uncredited cash payments;
- (3) The amount of the debt accrued and accruing;
- (4) The accuracy of the terms of the court or administrative order as stated in the notice of debt; and
- (5) The maintenance of any required medical or dental insurance coverage.

One of the Division’s administrative enforcement remedies is license revocation. The Division serves the obligor with a Notice of Intent to Revoke License. The Notice informs the obligor that to avoid suspension or revocation, he or she can establish a payment plan with the Division, inform the Division why he or she cannot pay the amount, or contest the amount by seeking a review. If the obligor fails to respond to the Notice, the enforcement agent for the case, after checking to ensure that the statutory requirements for suspension have been met, refers the matter to the Division’s assistant director, who reviews it once more before the case is certified to the Department of Motor Vehicles (DMV) for suspension of the noncustodial parent’s driver’s license or to the agencies for occupational or recreational licenses. Upon receipt of a certification of noncompliance from the Division, the license-issuing agency suspends/revokes the non-custodial parent’s license.

An example of how the administrative and judicial systems work together is Maine's Order to Appear and Disclose process. Some years ago, the Division noticed that about 20% of its caseload appeared to have "underground" income. In response, it developed an Order to Appear and Disclose Process. The agency may issue to the obligor an Order to Appear and Disclose if the obligor owes \$500 or more in overdue child support, the amount has been owed for at least 60 days, and the obligor is not making reasonable, regular payments to reduce the debt.

The Order directs the obligor to appear before the Division and disclose, under oath, information relating to the obligor's ability to pay child support. The obligor must bring income information, as well as the names of individuals who may have income information. If the obligor appears, the enforcement agent for the case takes a recorded deposition of the obligor. If the obligor fails to appear, the Division may request a civil order of arrest. The Division may file the proceeding as an action in the Maine District Court, asking for appropriate relief, which can include a sale or turnover order, and an order for the noncustodial parent to seek employment and report his/her activity in this regard. If the noncustodial parent does not appear as required in the District Court action, the court may issue an order for civil arrest. (By statute, the Division's non-attorney enforcement agents, when designated by the Commissioner of DHHS as trained for such duties, may prepare and sign the motion for a court hearing and represent the Division in the court Appear and Disclose proceedings without running counter to the prohibition of practicing law without a license.<sup>4</sup>)

Although time consuming, the agency has found the Order to Appear and Disclose process a very effective way to get income information and assessments of obligors' ability to earn in these hard-to-enforce cases.

## **VII. Statistics**

### Timeframes

Because Maine has used an administrative process for child support cases since the creation of the IV-D program, there are no comparative statistics regarding timeframes or costs for administrative and judicial processes.

In 2006, 70 % of administrative support orders were established within six months of successful service of process. Ninety-five percent were established within 12 months. In approximately 5% of the cases it took more than 12 months to administratively establish a support order.

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<sup>4</sup> The Appear & Disclose proceeding, an enforcement proceeding, is the only one in which the designated agents can represent the Division in the District Court proper, i.e., before District Court Judges. However, since 1998, there has been a Family Division within the Maine District Court, in which the judicial officers are magistrates, rather than judges. The Family Division provides an expeditious forum for child support actions in which the Division appears. In the Family Division of the District Court, the designated enforcement agents appear before Magistrates as a matter of course in case management conferences, status conferences, and mediation conferences in divorce and parental rights and responsibilities actions, in the latter of which they can also appear in final uncontested hearings.

#### Contests to Administrative Notice

In FY 2006, out of approximately 3,250 administrative support orders, approximately 450 orders (13%) were appealed to an administrative hearing officer. Default orders are not tracked. Many of the appeals were applications to set aside defaults, which can be filed up to a year after the default.

#### Number of Administrative Hearing Officers

There are seven administrative hearing officers who conduct administrative child support hearings.

### **VIII. Strengths/Limitations**

The agency representatives noted the following strengths of the Maine administrative process:

- It greatly reduces the time it takes from the initial opening of a case to when money actually reaches the custodial parent. According to the agency director, the agency can establish an order in one tenth the time it takes the court.
- It meets federal time frames. According to the agency director, almost 100% of IV-D cases needing support establishment have an order within six months.

The agency representatives did not note any limitations.

### **IX. Recommendations/Best Practices**

Recognize that making the transition to an administrative process is a big leap of faith. Ensure that the court is comfortable with all the due process protections. It is important for the court to know that there is another vehicle that will fairly resolve child support cases. The Maine administrative process even allows a party to open a default order a year later.

Since its inception, the Maine process has also been predicated upon the fact that once the court assumes jurisdiction over a case, it retains jurisdiction. In other words, once a support order is established judicially, the agency cannot administratively modify the order.



## Selected Maine Statutes

### Expedited Process for the Commencement of Paternity Actions

#### §1605. Notice of proceeding to commence an action

**1. Notice of proceeding.** The department may commence a paternity proceeding by serving a notice on an alleged father. The department may not serve such a notice unless it has a sworn statement or affirmation under the penalty for unsworn falsification from the child's mother claiming that the alleged father engaged in sexual intercourse with her during a possible time of conception of the child or is a man who is presumed under state law to be the child's father. If the mother is a minor, the sworn statement or affirmation may be that of the guardian or next friend of the mother. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**2. Contents of notice.** In addition to conforming with the requirements of Title 5, section 9052, subsection 4, the notice must include:

A. A statement that service of the notice on the alleged father constitutes the commencement of a paternity proceeding for the determination of paternity and any related issues under this chapter; [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

B. A statement identifying any of the following as the reason for filing the record of the proceeding in court.

(1) The alleged father fails to deny paternity.

(2) The alleged father refuses to submit to blood or tissue-typing tests.

(3) The alleged father fails to execute and deliver to the department an acknowledgment of paternity; [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

C. A statement that, if the department files a record of the proceeding, the department may seek relief under section 1606; [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

D. The child's name and place and date of birth; [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

E. The name of the child's mother and the name of the person or agency having custody of the child, if other than the mother; [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

F. The probable date on or period during which the child was conceived; [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

G. An allegation that the alleged father engaged in sexual intercourse with the child's mother during a possible time of conception of the child or is a man who is presumed to be the child's father under state law, and that the alleged father is or may be the biological father of the child; [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

H. If applicable, an allegation that the child may have been conceived as a result of sexual intercourse in this State and that the alleged father is subject to personal jurisdiction under section 1602; [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

I. A statement that the alleged father may deny the allegation of paternity by filing a written denial of paternity with the department within 20 days after service of the notice; that if the alleged father fails to file a written denial, the proceeding will be filed in a court as a paternity proceeding; and that the question of paternity and any related issues under this chapter may be resolved against him by the court; [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

J. A statement that if the alleged father files a written denial of paternity:

(1) The department will provide an expert examiner of blood or tissue types to conduct blood or tissue-typing tests on the mother, child and alleged father and the tests will be conducted as follows.

(a) The alleged father is required to submit to tests, which may include, but are not limited to, tests of red cell antigens, red cell isoenzymes, human leukocyte antigens and serum proteins.

(b) The department will pay the initial cost of the tests.

(c) An indigent alleged father is not liable for reimbursement of the cost of the tests;

(2) If the alleged father refuses to submit to tests under subparagraph (1), the proceeding will be filed in a court as a paternity proceeding;

(3) If the alleged father is not excluded by the test results and he does not, within 15 days of the ordinary mailing to him of a report and copy of the blood or tissue-typing results, execute and deliver to the department an acknowledgment of paternity of the child in accordance with the laws of the state in which the child was born, the proceeding will be filed in a court as a paternity proceeding; and

(4) If the alleged father is excluded by the test results as the biological father of the child, the proceeding will be filed in a court as a paternity proceeding for disposition under section 1561, subsection 1, paragraph A;

[1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

K. A statement that if, prior to the filing in a court, the alleged father executes and delivers to the department and the department accepts an acknowledgment of paternity, the proceeding must terminate and the department may proceed against him under chapter 65, subchapter II, article 3; [2001, c. 554, §3 (amd).]

L. A statement that the alleged father may, within 25 days after notice has been mailed to him that the record has been filed in a court, assert any defense, in law or fact, if the record is filed because the alleged father:

(1) Refuses to submit to blood or tissue-typing tests; or

(2) Fails to execute and deliver to the department an acknowledgment of paternity; and

[2001, c. 554, §3 (amd).]

M. A statement that the department may require the alleged father to submit to blood or tissue-typing tests prior to accepting an acknowledgment of paternity if it appears that there may be more than one alleged father, and may file the action in court if the alleged father refuses to submit to testing. [2001, c. 554, §4 (new).]

[2001, c. 554, §§3, 4 (amd).]

## **§1609. Failure of alleged father to deny paternity**

**1. Filing of record of proceeding in court.** If the alleged father fails to file a written denial of paternity with the department within 20 days after service of notice upon him, the department's attorney may file the record of the proceeding in a court as a paternity action. The filing of the record, along with proof of service pursuant to section 1604, constitutes a filing under the Maine Rules of Civil Procedure, Rule 3(1) and further service is not required. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**2. Failure to file written denial constitutes default.** The alleged father's failure to file a written denial with the department constitutes a default under the Maine Rules of Civil Procedure, Rule 55(a). The department shall forward to the alleged father by ordinary mail a copy of any request for a default judgment. The mailing of the request to the alleged father's last known address constitutes adequate notice of the default proceeding and further notice is not required. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

## **§1611. Refusal of alleged father to submit to blood or tissue-typing tests**

**1. Filing of record in court.** If the alleged father denies paternity and subsequently fails to submit to blood or tissue-typing testing, the record may be filed in court as a paternity action and the department may seek an adjudication of paternity pursuant to section 1558. The alleged father's refusal to submit to a blood or tissue-typing test constitutes a refusal to submit under section 1558. The filing of the record, along with proof of service pursuant to section 1604, constitutes compliance with the Maine Rules of Civil Procedure, Rule 3(1). [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**2. Notice of filing.** The department shall send to the alleged father by ordinary mail notice of the filing of the paternity proceeding and a request under section 1558. Within 20 days of the mailing of this notice, the alleged father may assert any defense, in law or fact. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**3. Request for default judgment or order.** The department shall forward to the alleged father by ordinary mail a copy of any request for a default judgment or an order pursuant to section 1558. If the alleged father does not notify the court in writing within 20 days of the date the department's request was mailed that he opposes the relief requested by the department, the court may grant the relief requested without a hearing. Any notice mailed must contain the substance of this section. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

## **§1612. Procedures after blood or tissue-typing tests**

**1. Transmittal of test results.** Upon receipt of the results of the tests, the department shall send copies of the results by ordinary mail to the alleged father and to the child's mother or to the mother's guardian or next friend if the mother is a minor. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**2. Exclusion of alleged father.** If the alleged father is excluded by the test results as the biological father of the child, the department may file the record of the proceeding in a court as a paternity proceeding for disposition under section 1561, subsection 1, paragraph A. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**3. Nonexclusion of alleged father.** If the alleged father is not excluded by the test results and he does not, within 15 days of the mailing to him of a copy of the blood or tissue-typing test results and report, execute and deliver to the department by ordinary mail an acknowledgment of paternity of the child in accordance with the laws of the state in which the child was born, the department may file the record of the proceeding, including the blood or tissue-typing test results, in a court as a paternity proceeding. Section 1561 applies to the action even though the tests were performed and the results prepared as part of an administrative proceeding. The alleged father's participation in

the tests may not prejudice any application by the alleged father under section 1559 for an order appointing an additional examiner of blood or tissue types. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

#### **§1615. Representation of department**

The commissioner may designate employees of the department who are not attorneys to file the record of proceedings commenced under this subchapter in District Court and to represent the department in court in both those proceedings and proceedings filed by other parties. The commissioner shall ensure that appropriate training is provided to all employees designated to represent the department under this subchapter. [2005, c. 352, §2 (amd).]

### **Article 3: Alternative Method of Support Enforcement**

#### **§2256. Notices; readability**

**1. Readability score.** As notices are revised by the department and as resources permit, all notices provided by the department under this article must have a readability score, as determined by a recognized instrument for measuring adult literacy levels, equivalent to no higher than a 6th-grade reading level. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

#### **§2304. Administrative establishment of parental support obligation; debt for past support; obligation to provide health insurance coverage**

When a support order has not been established, the department may establish the responsible parent's current parental support obligation pursuant to chapter 63, establish the responsible parent's debt for past support, including medical expenses, and establish the responsible parent's obligation to maintain health insurance coverage for each dependent child or to pay a proportionate share of health insurance premiums. The department may proceed on its own behalf or on behalf of another state or another state's instrumentality, an individual or governmental applicant for services under section 2103 or a person entitled by federal law to support enforcement services as a former recipient of public assistance. The department acting on behalf of another state, another state's instrumentality or a person residing in another state constitutes good cause within the meaning of Title 5, section 9057, subsection 5. Notwithstanding any other provision of law, a parental support obligation established under this section continues beyond the child's 18th birthday, if the child is attending secondary school as defined in Title 20-A, section 1, until the child graduates, withdraws, is expelled or attains 19 years of age, whichever occurs first. For purposes of this section, "debt for past support" includes a debt owed to the department under section 2301, subsection 1, paragraph A, a debt owed under section 2103 and a debt that accrues under sections 1504 and 1554. [2001, c. 264, §12 (amd).]

**1. Notice of support order.** The department shall serve the responsible parent with a notice that it intends to establish a support order and a blank income affidavit. The notice must state:

A. The names of both parents and the names of each dependent child; [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

B. The department's intention to establish a support order, which may include a periodic payment for current support, a debt for past support, including medical expenses, and an obligation to provide health insurance coverage; [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

C. That the responsible parent must submit a completed income affidavit to the department within 30 days; [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

D. That the department calculates a proposed support order based on the State's child support guidelines using all available information and, if there is a lack of sufficient reliable information about a parent's actual earnings for a current or past period, the department presumes for the purpose of establishing a current support obligation or a debt for past support that the responsible parent has or had an earning capacity equal to the average weekly wage as determined by the Department of Labor statistics for the applicable years; [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

E. That the department will send to the responsible parent by regular mail a copy of the proposed support order and the department's child support worksheets; [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

F. That the responsible parent may request a hearing in writing within 30 days of the date of mailing of the proposed support order; [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

G. That, if the department does not receive a timely request for hearing, it will issue a decision that incorporates the findings of the proposed support order and will send a copy of the decision to both parents by regular mail; [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

H. That, after a decision is issued, the department may enforce the decision by any lawful means, including immediate income withholding, lien and foreclosure, administrative seizure and disposition, order to withhold and deliver and tax refund intercept; and [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

I. That, if the department establishes a debt for past support, the department may report the responsible parent and the amount of the debt to a consumer credit

reporting agency. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]  
[1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**2. Proposed support order.** After serving notice upon the responsible parent in accordance with subsection 1 and after more than 30 days have elapsed, the department shall calculate the responsible parent's parental support obligation and debt for past support pursuant to chapter 63. Based on its calculations under the support guidelines, the department shall issue a proposed support order. The proposed support order must include the department's calculations and state the amount of the responsible parent's current parental support obligation and debt for past support, including medical expenses, and must state the responsible parent's obligation to provide health insurance coverage for each dependent child and to pay a proportionate share of uninsured medical expenses. The department shall send a copy of the proposed support order to the responsible parent by regular mail, along with a copy of the department's child support worksheet. The proposed order must be accompanied by a notice that states:

A. That the responsible parent has the right to request a hearing within 30 days of the date of mailing of the proposed support order and that, if a hearing is requested, the department will send the responsible parent a notice of hearing by regular mail at least 30 days before the date of the hearing, along with a statement of the hearing rights described in subsection 3, paragraph A; [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

B. That, if the department does not receive a timely request for hearing, the department will issue a decision that incorporates the findings of the proposed support order into the department's decision and will send a copy of the decision to both parents by regular mail; [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

C. That, if the department issues a decision that establishes a responsible parent's support obligation, the department may enforce the decision by any lawful means, including immediate income withholding, lien and foreclosure, administrative seizure and disposition, order to withhold and deliver and tax refund intercept; and [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

D. That, if the department establishes a debt for past support, the department may report the responsible parent and the amount of that debt to a consumer credit reporting agency. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]  
[1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**3. Hearing.** The hearing must be conducted according to rules adopted by the commissioner.

A. At the hearing, the responsible parent may present testimony, cross-examine witnesses and be represented by an attorney or other person. In rendering a decision,



the department may not consider evidence that was not presented at the hearing. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

B. When deciding the amount of the current parental support obligation, the debt for past support and the availability of health insurance coverage, the official conducting the hearing shall consider at least the following criteria:

- (1) Each child's needs;
- (2) The responsible parent's income and real and personal property;
- (3) The responsible parent's ability to borrow;
- (4) The responsible parent's ability to earn;
- (5) The responsible parent's needs;
- (6) Whether the responsible parent has a duty to support other dependents. In any case, each child for whom support is sought must benefit as much as any other dependent from the income and resources of the responsible parent;
- (7) Whether the responsible parent has voluntarily incurred subsequent obligations that have reduced that parent's ability to pay support. This condition does not relieve the responsible parent of the duty to provide support;
- (8) Whether employer-related or other group health insurance coverage is available to the responsible parent; and
- (9) Whether the responsible parent's existing health insurance coverage may be extended to include each dependent child.

[1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]  
[1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**4. Decision.** If a hearing is held, the department shall render a decision based on the hearing record and applicable state laws and rulemaking. If a request for hearing is not made in a timely manner or if the responsible parent does not appear at the hearing, the department shall issue a decision that incorporates the findings of the department's proposed support order. The department shall send a copy of the decision to both parents by regular mail. The decision must establish and state:

A. The responsible parent's duty to provide support, the amount of the current parental support obligation, the amount of any debt for past support including medical expenses, the obligation of the responsible parent to maintain health insurance coverage for each dependent child and to pay a proportionate share of uninsured medical expenses and that the responsible parent must provide written proof to the department of health insurance coverage that is required by the decision



within 15 days of the responsible parent's receipt of the decision; [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

B. If an obligation for current support is established, an order for immediate income withholding is issued and made a part of the decision; [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

C. That, 30 days after the decision is issued, the department may enforce the decision by any lawful means, including immediate income withholding, lien and foreclosure, administrative seizure and disposition, order to withhold and deliver and tax refund intercept; [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

D. That, if the department establishes a debt for past support, the department may report the responsible parent and the amount of the debt to a consumer credit reporting agency; [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

E. That, if the responsible parent does not maintain health insurance coverage when required to do so by the department, the responsible parent may be held liable for all medical expenditures made by the department or the custodial parent on behalf of each dependent child; and [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

F. That the responsible parent may appeal the decision within 30 days of the date of mailing of the decision by requesting the department to hold an administrative appeal hearing. The decision must also state that the resulting appeal hearing must be based on the evidence submitted at the underlying hearing, if any. Evidence not part of the hearing record may be considered at the appeal hearing only if the evidence was offered but incorrectly excluded at the underlying hearing. [2005, c. 352, §9 (amd).]  
[2005, c. 352, §9 (amd).]

**5. Collection action.** The department may initiate collection action 30 days after the date of mailing of a decision. If a decision includes an immediate income withholding order, the department may implement the withholding order to collect current support immediately after the decision is issued. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**6. Subsequent order.** A decision under this section remains in effect until superseded by a subsequent support order. [1997, c. 466, §18 (amd); §28 (aff).]

**7. Request to set aside.** Within one year of the mailing of a decision, the responsible parent may request the department to set aside the decision if the responsible parent shows good cause why the responsible parent did not request a hearing or did not appear at a hearing and presents a meritorious defense to the

decision. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**8. Amendment.** A responsible parent may request an administrative hearing to amend a decision issued under this section prospectively based on a substantial change of circumstances. The department may seek to amend a decision issued under this section prospectively, based on a substantial change of circumstances, by using the same process permitted by this section for establishing a support obligation. When proceeding to amend a decision issued under this section, the department shall state in its notice of hearing that the purpose of the proceeding is to amend the responsible parent's support obligation based on a substantial change of circumstances.

Modification and termination of child support orders are governed by section 2009. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**9. Enforcement.** A decision under this section establishes a support obligation for purposes of enforcement under section 2103. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**10. Provisions supplemental.** The provisions of this chapter are in addition to other laws and rules that enable the department to establish child support obligations. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

### **§2307. Discovery of past income**

The responsible parent has an obligation to supply evidence regarding past income in order to calculate the debt owed the department or an applicant for services under section 2103 if the evidence is reasonably available. The responsible parent has 30 days to supply evidence of past income if requested to do so by the department. A request for evidence regarding past income may be made through an administrative form developed by the department. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

Failure to provide the evidence, absent a showing of good cause for failure to do so or notification to the department of good faith attempts to secure the information, allows the administrative hearing officer to draw a reasonable inference from the evidence available, including an inference that the responsible parent had a greater earning capacity than the average weekly wage of a worker within this State as defined by the most recent Department of Labor statistics. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

### **§2352. Notice of support debt when court order exists**

When the department is subrogated to a support order or a spousal support order under section 2351, the commissioner may issue to the responsible parent a notice of debt accrued or accruing under section 2301. [1997, c. 466, §20 (amd); §28 (aff).]

**1. Notice of debt.** In addition to conforming with the requirements of Title 5, section 9052, subsection 4, notice of debt must include:

A. A statement of the debt accrued or accruing under section 2301; [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

B. A statement of the terms of the support order, including the names of each dependent child; [1997, c. 466, §21 (amd); §28 (aff).]

C. A statement that any property of the debtor is subject to lien and foreclosure, administrative seizure and disposition, order to withhold and deliver or other collection actions and that any debt determined to be owed by the responsible parent may be reported to a consumer reporting agency; [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

D. A demand for payment of the support debt within 20 days of receipt of the notice of debt; [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

E. A statement that the net proceeds of any collection action will be applied to the satisfaction of the support debt; [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

F. A statement that the responsible parent has the right to request a hearing under section 2451, or, in the alternative, to seek relief in a court of proper jurisdiction; [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

G. A statement that at the administrative hearing only the following issues may be considered:

- (1) The receipt of public assistance by the responsible parent;
- (2) Uncredited cash payments;
- (3) The amount of the debt accrued and accruing;
- (4) The accuracy of the terms of the support order as stated in the notice of debt; and
- (5) The maintenance of any required medical or dental insurance coverage; and [1997, c. 466, §21 (amd); §28 (aff).]

H. A statement that the department will stay collection action upon receipt of a request for review under section 2451 or on service of pleadings filed in a court of proper jurisdiction. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

[1997, c. 466, §21 (amd); §28 (aff).]

**2. Commencement of action.** Actions to collect any debt accrued or accruing under section 2301 may commence after 20 days after the date of receipt of the notice of debt described in this section. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**3. Demand for immediate payment.** If the commissioner finds that the collection of any support debt accrued or accruing under section 2301 is in jeopardy, the commissioner may make demand under subsection 1 for immediate payment of the support debt, and upon failure or refusal immediately to pay, the commissioner may file and serve liens pursuant to section 2357. An action under sections 2358, 2363 and 2364 may not be taken until the notice requirements of subsection 1 are met. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**4. Stay of collection action.** If the responsible parent requests review of a notice of debt accrued or accruing under section 2451, or seeks relief in a court of proper jurisdiction, and if the department receives the request or service of pleadings within 21 days after service of the notice of debt, the department shall stay the collection action. The department shall accept ordinary mail service of copies of all pleadings, which must be addressed to the department representative whose name appears on the face of the notice of debt. Service upon the department is in addition to any other service required under the Maine Rules of Civil Procedure. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

## **§2358. Order to withhold and deliver**

The commissioner shall proceed as follows with respect to any order to withhold and deliver. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**1. Service of order.** The commissioner may serve on any person an order to withhold and deliver any property, including wages, that is due or belongs to the responsible parent when:

A. A lien has been filed pursuant to former Title 19, section 503 or 503-A or section 2357; or [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

B. Twenty-one days have elapsed from the date of receipt of a notice of debt under section 2352 or 30 days after the date of mailing to a responsible parent of a decision of the department that requires the responsible parent to pay child support. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]  
[1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**2. Notice to responsible parent.** When an order is issued, the department shall send a copy of the order to the responsible parent by regular mail at the responsible parent's

last known address. [1997, c. 466, §22 (rpr); §28 (aff).]

**3. Order; contents.** The order to withhold and deliver must state the amount of the support debt accrued and accruing and the terms of former Title 19, section 503 or 503-A or sections 2357 and 2366 and demand a listing of property, including wages, that is due or belongs to the responsible parent. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**4. Answer.** A person served with an order to withhold and deliver shall answer the order within 20 days of receipt of the order. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**5. Withhold and deliver.** A person served with an order to withhold and deliver shall withhold immediately any property, including wages, due to or belonging to the responsible parent. After 20 days from the date of receipt of this order and upon demand of the commissioner, the property of the responsible parent must be delivered to the commissioner. An order to withhold and deliver issued by an out-of-state child support agency or court must be honored by a financial institution authorized to do business in this State as defined in Title 9-B, section 131, subsection 17-A or credit union authorized to do business in this State as defined in Title 9-B, section 131, subsection 12-A. [2005, c. 352, §10 (amd).]

**6. Delivery of money.** If the money is due under an express or implied contract, or if money is held subject to withdrawal by the responsible parent, the money must be delivered by check payable to the Treasurer of State. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**7. Bond as alternative.** Instead of the property of the responsible parent, the commissioner may accept a bond conditioned upon final determination of liability. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**8. Effect of honoring order.** A person who honors an order to withhold and deliver is discharged from any liability or obligation to the responsible parent for that property. The department warrants that it will defend and hold harmless any such persons for honoring the order. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**9. Term of order.** The order to withhold and deliver remains in effect, requiring withholding of each successive earnings disbursement, until the amount of debt stated in the order has been withheld. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**10. Priority of order.** Notwithstanding any other provision of law, the order to withhold and deliver has absolute priority over previously filed orders against assets, earnings and assignments of earnings not for the enforcement of a child support obligation. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

## §2361. Order to appear and disclose

**1. Order.** The commissioner may commence an action under Title 14, chapter 502 by directing a responsible parent to appear before the department to disclose under oath information that relates to the responsible parent's ability to pay child support. The commissioner may require a responsible parent who is directed to appear to provide documents, papers and other evidence about the responsible parent's income and assets for the purpose of enforcing a support order. An order to appear and disclose must be served on the responsible parent as provided by the Maine Rules of Civil Procedure, Rule 4. [1997, c. 466, §23 (amd); §28 (aff).]

**2. Venue.** The department may commence the action by ordering the obligor to appear at an office of the department, as long as the distance to be travelled by the obligor is no more than 100 miles from the obligor's place of residence. If the department files the action in court, the department shall file the action in the division of the District Court where the obligor resides or in the division that has ordered the obligor to pay child support, if any. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**3. Notice to responsible parent.** The department shall include a notice to the responsible parent with each order to appear and disclose. The notice must include the following information:

A. The date, time and place of the disclosure proceeding; [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

B. The amount of child support the responsible parent owes; [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

C. That the department may file a record of the proceeding in court to collect the debt; [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

D. That, if the department files a record of the proceeding in court, the court will notify the responsible parent by regular mail of the date, time and place of the court hearing; [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

E. That, if a record of the proceeding is filed in court, the court may issue any lawful order, including a sale or turnover order, an order to seek employment or a civil order of arrest; [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

F. That, if a record of the proceeding is filed in court and the responsible parent is not making regular child support payments, the burden of proof is on the responsible parent to show why regular payments can not be made; [1997, c. 407, §2 (amd); §5 (aff); c. 537, §46 (amd); §62 (aff).]

G. The penalties as provided by this section that could be incurred by the responsible parent for failure to appear, failure to provide documents, papers and other evidence as required or intentionally providing false information; [RR 1997, c. 1, §17 (cor).]

H. That the responsible parent must provide to the department the name and last known address of any other person that has an ownership in any property in which the responsible parent has an ownership interest; and [RR 1997, c. 1, §18 (cor).]

I. That failure to comply with the order to appear and disclose may result in revocation of the obligor's driver's license, occupational licenses or other licenses as defined in section 2101, subsection 7. [RR 1997, c. 1, §19 (ral).]  
The notice must be accompanied by a copy of the support order under which the responsible parent owes child support.  
[RR 1997, c. 1, §§17-19 (cor).]

**4. Notice to obligee.** The department shall provide notice to the obligee of the time and place of the disclosure proceeding and the nature of the proceeding. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**5. Limitation of action.** The department may issue an order to appear and disclose only if the responsible parent owes \$500 or more in overdue child support, the amount has been owed for at least 60 days and the responsible parent is not making reasonable, regular payments to reduce the debt. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**6. Continuance.** The department may grant a continuance of the proceeding for good cause. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**7. Transcribable record.** The department shall prepare an official, transcribable record of all proceedings held under this section. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**8. Failure to appear.** If the responsible parent fails to appear after being served with an order to appear and disclose, the department may request a civil order of arrest pursuant to Title 14, sections 3134 and 3135 for violating the order to appear and disclose by filing a copy of the order to appear and disclose, proof of service of the order and an affidavit attesting that the responsible parent failed to appear for the administrative disclosure proceeding. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**9. Court action.** The commissioner may file the record of a proceeding in the District Court to ask the court for any appropriate relief under Title 14, chapter 502, including an order requiring the responsible parent to seek employment and report that activity to the department. The record must be accompanied by a motion. The department shall notify the responsible parent by regular mail upon filing the record in



court. The notice to the responsible parent must include a copy of the department's motion. The filing of the record, along with proof of service of the order to appear and disclose, constitutes a filing under the Maine Rules of Civil Procedure, Rule 3(1) and further service is not required. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**10. Representation of the department.** The commissioner may designate employees of the department who are not attorneys to represent the department in District Court in a proceeding filed under this section. A designated employee may prepare and sign the motion as required under subsection 9. The commissioner shall ensure that appropriate training is provided to all employees designated to represent the department under this subsection. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**11. Employee protection.** An employer who discharges, refuses to employ or takes disciplinary action against a responsible parent, or who otherwise discriminates against the parent because the parent must appear before the department pursuant to this section is liable in an action by the responsible parent for compensatory and punitive damages, plus attorney's fees and court costs. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**12. Penalties.** Failure to appear before the department, absent good cause, is a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged. Failure to provide documents, papers and other evidence as required, absent good cause, is a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged. Intentionally providing false information is a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged for each violation. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**13. Repeal.** [1997, c. 669, §9 (rp).]

**14. License revocation.** If an obligor who is served with a support order under subsection 1 fails to appear without good cause or fails to provide documents, papers and other evidence as required by the order without good cause, the department may certify the obligor's noncompliance to the Secretary of State for suspension of the obligor's driver's license and right to operate a motor vehicle and to any board or other entity in the State that issues a license as defined in section 2101, subsection 7. Upon receipt of a certification of noncompliance from the department, the Secretary of State, board or other entity shall cause any licenses held by the obligor to be suspended or revoked and may not issue or renew a license to the obligor until the department issues a written statement that the obligor has complied with the order. A suspension, revocation or refusal by a board or other licensing entity to reissue, renew or otherwise extend a license or permit of an obligor certified by the department is a final determination within the meaning of Title 5, section 10002. [1997, c. 537, §48 (new); §62 (aff).]



## §2451. Administrative review

Within 30 days of receiving notice of any action under this article, including an administrative decision establishing an obligation to provide health insurance and payment for other medical expenses, the responsible parent or the department may move for a review of any action under this article by serving a request for review, together with an affidavit stating the grounds upon which the request is based, upon the other party. The department may review any action under this article without proceeding under this section. The department acting on behalf of another state or its instrumentality or a person residing in another state constitutes good cause within the meaning of Title 5, section 9057, subsection 5. [2005, c. 352, §11 (amd).]

**1. Notice of hearing.** If the responsible parent moves for a review, within 7 days of receipt of the request for review the department shall send, by registered or certified mail, the responsible parent a notice of hearing setting a hearing date not less than 15 nor more than 30 days from the date of service of the request for review. If the department moves for a review, the department shall serve along with the request for review a notice of hearing, setting a date not less than 15 nor more than 30 days from the date of service of the notice. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

**2. Hearing.** The conduct of the hearing and rendering of any decision is as follows.

A. The hearing must be conducted according to rules adopted by the commissioner. Except as provided by section 2304, subsection 4, paragraph F, the rules must provide both the moving and responding parties at least the right to confront and cross-examine witnesses, to present witnesses, to be represented by an attorney or other person and to be notified of these rights in writing. The decision must be limited to evidence presented at the hearing. [2005, c. 352, §12 (amd).]

B. If the hearing is on a notice of debt issued under section 2352, only the following issues may be considered:

- (1) The receipt of public assistance by the responsible parent;
- (2) Uncredited cash payments;
- (3) The amount of the debt accrued and accruing;
- (4) The accuracy of the terms of the court or administrative order as stated in the notice of debt; and
- (5) The maintenance of any required medical or dental insurance coverage. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

C. The hearing officer shall render a decision within 30 days of the date on which

the hearing was held. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

D. Within 10 days of the decision being rendered, a copy of the decision together with a notice of the right to a judicial review must be sent to the responsible parent by ordinary mail. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]  
[2005, c. 352, §12 (amd).]

**3. Stay.** If a pleading is filed in any court that requests modification of an order for support after a final administrative decision under this section is served on the responsible parent, the department's collection action may not be stayed. If a pleading is filed for judicial review of agency action, the collection action may be stayed as provided in Title 5, section 11004. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

### **§2453. Judicial review**

A person who is aggrieved by a final action of the commissioner under this article may file an action under the Maine Rules of Civil Procedure, Rule 80C seeking review of that action. Administrative remedies must be exhausted prior to such review. [1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff).]

See also the agency manual at  
[www.maine.gov/dhhs/OIAS/dser/manual](http://www.maine.gov/dhhs/OIAS/dser/manual)

Of special significance are the following chapters:

Chapter 8 Administrative Establishment of Child Support Obligations

Chapter 9 Expedited Process for Commencement of Paternity Actions

Chapter 10 Notice of Support Debt and Expedited Income Withholding

Chapter 11 Rules for Hearing

Chapter 13 Proceedings to Amend or Set Aside Administrative Decisions; Proceedings to Appeal

Chapter 15 Rules Relating to Alternative Method Collection of Support Debt Mechanisms